Author: I. Oleksiewicz

Protection of the security system vs. counter-terrorism policy of the European Union

In today's world the proper identification of risk and the ability to respond immediately to emergencies are essential. For centuries ensuring safety has been a primary function of the state. The state establishes its priorities and improves the level of protection on its territory. The variety of equities at risk, the size of the threats and the circumstances in which they may occur, create regulations on security and public order in many fields. Responsible public administration is a factor contributing to the overall security of the citizens in the state. The abuse of discretionary power, sometimes seemingly leading to illustrate the efficiency of these bodies, contributes to a violation of the principle of legality and proportionality. The lack of trust between citizens and those who act on behalf of the state creates an atmosphere of threat to public safety and, consequently, may also be a pretext for collective disobedience.

Religious, demographic, social (social security) and ideological issues, along with military and economic challenges, have become crisis-causing factors. An example of the importance of religious and ideological base is the terrorist attack on the editorial staff of the satirical weekly Charlie Hebdo in Paris on January 7, 2015. At the same time, one should not forget that this was not the only event of this sort in the last decade: Charlie Hebdo had already been the victim of a terrorist attack in November 2011; however, no one was injured then. Another example would be the attacks carried out in Brussels on May 24, 2014 and in Toulouse on March 11, 19 and 22 of 2012. And yet the French intelligence services did not have legal access to administrative records until 2006. This bill, which came into force on January 23, 2006, gave them access to personal data held by the Ministry of Internal Affairs, which enabled monitoring of sites and buildings of public use.

> *When analysing the existing EU legislation, it can be seen how essential to the EU's anti-terrorism policy is the efficacy of protecting the security of its member states and the proper identification of risks at national level and within the cross-border cooperation.*

The installation of CCTV also enabled the archiving and displaying of video footage to aid counter-terrorism efforts. These powers were insufficient. The processes of globalization had a greater impact on the security environment than the divisions in the international community. Globalization seems to be so advanced that a network of various connections between countries and societies in the world is too dense to be disintegrated or reduced. The inevitable consequence of globalization is the erosion of state sovereignty, which affects each of the countries, although to varying degrees. This is due to the 'de-territoriality' of social processes and deepening among various global or international interdependences in every area of social life. This process takes place gradually, but is as durable as globalization, thus affecting the international order.

When analysing the existing EU legislation, it can be seen how essential to the EU's anti-terrorism policy is the efficacy of protecting the security of its member states and the proper identification of risks at national level and within the cross-border cooperation. Through a comparative analysis of the legal acts of an internal nature in some member states one can notice (even with the example of France) the extent to which there is a harmonization of the EU law with the law of individual member states, and to identify the challenges for their legal systems.

An essential element of the right operation of all those involved in ensuring the safety is the knowledge in this field. A lot remains to be done, both in terms of the creation and standardization of regulations, as well as in adapting the tasks to the needs of ensuring effective internal security. The future of the EU anti-terrorist policy depends not so much on the efficiency of the police and military formations as on the ability to resolve social and international conflicts. International organizations are still one of the main instruments of counter-terrorism policy. They are facing the need to adapt themselves to the rapidly changing security environment. Although the European Union wants to be a major player in the field of strategic counter-terrorism policy in a European dimension, it has been entering into this role relatively slowly and not consistently, therefore most of the instruments and expertise in the fight against terrorism remains within the responsibility of member states. They, in turn, far too often guard their own sovereign prerogatives and information systems, instead of sharing them in order to protect their citizens.

One of the key determinants of the EU to adapt to the conditions of the future security environment is to work with others to build different types of institutions, as well as to work

on conflict prevention and management. Here there are grounds to fight against different types of threats. Conducting counter-terrorism policy, thereby preventing and combating transnational crime and terrorism, requires cooperation and coordination of various units at both the EU and national level. The process of European integration largely determines cooperation of the EU countries within the counter-terrorism policy. Along with the removal of borders and the increasingly close cooperation between EU countries, the increase of the terrorist threat is an obvious phenomenon. Therefore, the fight against international terrorism and the establishment of appropriate mechanisms for cooperation at the EU level has become a field included in the process of integration. It is the responsiveness of the system of protection of national security that effective fight against terrorism depends on, and thus the quality of a country's counter-terrorism policy. The shape of the counter-terrorism policy in the EU member states is the result of both the terrorist acts that occur in other parts of the world, as well as the effect of launching such a policy at the European level. A side effect of the attacks in Madrid, London or Paris was the fact the EU politicians realized that the success of the anti-terrorist policies at the continental level depends primarily on the effectiveness of the actions taken at the level of the state.

Conclusions

1. The attacks in London, Madrid or Paris have not changed the current approach to the implementation of counter-terrorism policy in the EU member states. This does not mean, however, that the policy has not undergone any transformation. Still, it can be observed that this approach is increasingly focused only on punishing criminals, and less on the study of the sources of terrorist threats.

2. The very creation of anti-terrorism programs gives no guarantee that the response to various kinds of terrorist threats will change. The only reasonable solution in this regard is the creation of specific procedures to be adopted at both the national and local levels.

3. EU counter-terrorism policy is based on loosely interrelated policies of its member states. There is one cohesive element: a number of political and legislative commitments made at the government level, which are not always implemented.

Recommendations for the EU

1. Further work is necessary to broaden the base of the EU counter-terrorism policies, including, in particular, the standardization of the definition of terrorism. Going beyond the regional aspect in this area would be another important step, which would in the future provide the ability to respond appropriately to threats such as terrorism.

2. The position of the EU member states should change. So far they have focused on combating terrorism in Europe, without going beyond its borders. This resulted in two types of consequences. Countries recognized that counter-terrorism is an issue belonging exclusively to their competence. In addition, they see international cooperation in this field as necessary, but only a complement and enhancement of their capability to fight terrorism.

3. To be able to effectively conduct counter-terrorism policy, it must combine preventive and repressive elements consisting in punishing terrorists, accomplices, instigators and helpers of such crimes. The power of a good security protection system lies in how we place the boundaries between prevention and punishment.

4. Co-operation between the EU institutions and its mechanisms is necessary. Especially in the case of terrorism, the key to solving the problem lies outside the EU. To effectively fight against terrorism requires not only close coordination within the EU, but also a common, consistent foreign policy towards its external sources and principals. It also requires effective and full cooperation with the United States and its security agencies. The logical consequence of such actions may be the necessity to carry out a joint military preventive or peace operation.

Recommendations for Poland

1. In Poland, an analytical centre should be established, located at the Parliament. Such a centre should be independent of both bodies of the executive branch (the President and the Council of Ministers), but placed in the hierarchy of public administration. It should create reports, studies, forecasts and guidelines, including in the field of security, which should not only be taken into account in the implementation of national security, but could also provide a starting point for all the parliamentary debates on the security of the state, including with the participation of the President.

2. The police force, responsible for combating terrorism, should possess access to information about people travelling regularly or those who prolonged their stay in the country known as the area of radicalization, as well as to information on the organization identified as a terrorist one. Moreover, in Poland there are two institutions, which play a leading role in anti-terrorism actions: The Internal Security Agency and the Police. Currently, the division of their responsibilities is not clear. Therefore, their powers should be more clearly separated so that they can cooperate closely in the fight against terrorism.

Author: *Prof. Izabela Oleksiewicz, Research Fellow at the Casimir Pulaski Foundation*

The Casimir Pulaski Foundation is an independent, non-partisan think-tank specializing in foreign policy and international security. The Pulaski Foundation provides analyses that describe and explain international developments, identify trends in international environment, and contain possible recommendations and solutions for government decision makers and private sector managers to implement.

The Foundation concentrates its research on two subjects: transatlantic relations and Russia and the post-Soviet sphere. It focuses primarily on security, both in traditional and non-military dimensions, as well as political changes and economic trends that may have consequences for Poland and the European Union. The Casimir Pulaski Foundation is composed of over 40 experts from various fields. It publishes the Pulaski Policy Papers, the Pulaski Report, and the Pulaski Viewpoint. The Foundation also publishes "Informator Pułaskiego," a summary of upcoming conferences and seminars on international policy. The Foundation experts cooperate with media on a regular basis.

Once a year, the Casimir Pulaski Foundation gives the Knight of Freedom Award to an outstanding person who has promoted the values represented by General Casimir Pulaski: freedom, justice, and democracy. Prizewinners include: Professor Władysław Bartoszewski, Professor Norman Davies, Alaksandar Milinkiewicz, President Lech Wałęsa, President Aleksander Kwaśniewski, President Valdas Adamkus, Bernard Kouchner, and Richard Lugar.

The Casimir Pulaski Foundation has a partnership status with the Council of Europe and is a member of the Group Abroad, an association of Polish non-governmental organizations involved in international cooperation.

www.pulaski.pl